

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RENITA CHALEPAH, et al.,

Plaintiff,

v.

CITY OF OMAHA, et al,

Defendants.

CASE NO. 8:18cv381

**DEFENDANTS' MOTION FOR
SANCTIONS PURSUANT
TO Fed.R.Civ.P. 11**

COME NOW the Defendants, by and through undersigned counsel of record, and move the Court pursuant to Fed. R. Civ. P. 11(b) for an Order of this Court for sanctions against the Plaintiff.

IN SUPPORT OF THIS MOTION, the Defendants show the Court:

1. On May 29, 2020, Plaintiff filed a "Motion for Individual Sequestered Voir Dire of Veniremen" (Doc. #105), along with a Brief (Doc. #106) and Index of Exhibits (Doc. #107) in support of said Motion.

2. A review of the docket report in this case indicates that this matter is not set for trial and, moreover, that discovery has not been completed and no dispositive Motions have been filed.

3. Plaintiff's timing and filing of this Motion is an intentional and concerted effort to harass Defendants by bringing unwarranted and unnecessary attention to this case during a time of civil strife.

4. Plaintiff's Motion and Brief contain factually inaccurate and inflammatory statements, such as "This misconduct amounts to Murder in the Second Degree, at a Minimum."

(Doc. #105, pg. 8). Defendants will remind this Court and Plaintiff's counsel that Mr. Payne was acquitted of all criminal charges by a jury of his peers. Continued reference to "murder" in this case amounts to improper taint of the jury pool. Attorney Issacs has made similar statements in a telephone conference before Magistrate Judge Nelson on January 3, 2020. These statements are not appropriate and must be curtailed immediately.

5. Also by way of example, Plaintiff's Motion and Brief abound with hyperbole that Defendants "killed" Mr. Bear Heels. In fact, the undisputed facts indicate that Mr. Bear Heels died of excited delirium, which is the official cause of death and which is also accepted and acknowledged by Plaintiff's own expert witnesses.

6. Moreover, some statements are just simply untrue: "A Grand Jury indicted Officer Eric Forehead for his actions." (Doc. #105, pg. 5); and "The Videos will show the Jury areas of racial bias." (Doc. #105, pg. 12).

7. To deter repetition of Plaintiff's conduct or comparable conduct by others similarly situated and to control the integrity of the judicial process, this conduct should be subject to appropriate sanctions.

8. Defendants have complied with the provisions of Rule 11 (c)(2) of the Federal Rules of Civil Procedure by serving a copy of the Motion for Sanctions on Plaintiff on June 3, 2020, more than 21 days before presenting this Motion to the Court. Plaintiff has not withdrawn her Motion and/or Brief as of the date of this filing.

9. In further support of this Motion, Defendants have submitted a legal brief.

FOR THE FOREGOING REASONS, the Defendants request that this Court assess Sanctions on the Plaintiff as follows:

- a. Issue a written admonishment to Plaintiff's counsel to stop the incendiary rhetoric and especially stop any reference to "murder";
- b. Issue monetary sanctions against Plaintiff's counsel in an amount the Court deems appropriate to deter future conduct; and
- c. Issue any other sanctions against Plaintiff's counsel the Court deems just under the circumstances.

Respectfully submitted this 2nd day of July, 2020.

CITY OF OMAHA, et al., Defendants

By: /s/ Michelle Peters
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 2nd day of July, 2020, the foregoing **MOTION FOR SANCTIONS** was served with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the attorneys of record in this matter.

s/ Michelle Peters
Deputy City Attorney